

REMARKS

Reconsideration of the present application is respectfully requested.

Claims 1-12 and 15-28 are pending in the application. It is gratefully acknowledged that the Examiner allowed Claims 20-23. The Examiner rejected Claims 1-12 and 24-28 under 35 U.S.C. §101 as being directed to non-statutory subject matter. The Examiner also rejected Claims 1-3 and 15-19 under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,188,698 to *Galand et al.* (hereinafter *Galand*) in view of U.S. Publication No. 2005/0044206 to *Johansson et al.* (hereinafter *Johansson*).

Please amend Claims 1, 3, 5, 8 and 24 as set forth herein. No new matter has been added.

A telephonic interview was held on February 28, 2007, between the Examiner and Applicants' representative to discuss the 101 rejections.

Regarding the §101 rejection of Claims 1-12 and 24-28, the Examiner alleged that the claims are directed to non-statutory subject matter. Applicants disagree but have amended Claims 1, 5, 8 and 24 in order to further prosecution.

Particularly, Claim 1 has been amended to recite "calculating a value by using the parameter, and using the value to classify the service class of the packet data." Claims 5, 8 and 24 have been similarly amended.

Based on at least the foregoing, withdrawal of the rejection of Claims 1-12 and 24-28 is respectfully requested.

Regarding the §103(a) rejection of Claims 1-3 and 15-19, Applicants respectfully disagree with the Examiner. Independent Claim 1 recites, *inter alia*, determining a parameter based on whether the measured number of packet data is larger than a threshold value associated

with a two-way communication characteristic of the packet data transmission. Independent 15 similarly recites this recitation in an apparatus claim format. *Galand* simply does not teach this recitation.

Particularly, *Galand* does not determine whether a measured number of packet data is larger than a threshold value. The passages in *Galand* cited by the Examiner (FIG. 5A, col. 8, lns. 1-10 and col. 14, lns. 45-49) recite a COUNT(i) to which is compared predefined threshold values red and green (Red_Thr, Green_Thr). The Examiner incorrectly alleges that “counted packets” is compared to a threshold. *Galand* makes no such determination. The COUNT(i) does not refer to counted packets, or a measured number of packet data as recited in the rejected claims. Instead, it refers to whether each connection is “well-behaving” or “misbehaving”, based on “color” (i.e., behavior) of each packet, and Q.O.S. characteristics/priority class (see *Galand*, col. 8, lns. 26-34; see also col. 8, line 65 – col. 9, line 3). Accordingly, *Galand* clearly fails to teach the recitation at issue in Claims 1 and 15.

Moreover, *Galand* basically determines connection classifications in FIG. 5A cited by the Examiner, based on whether the color (figuratively- see Footnote 1) of current connections is red or green. The Examiner incorrectly alleges that an outcome determined to be red or green is based on a measured number of packets in *Galand*. As previously explained, there is no measured amount of packets compared to a threshold in *Galand*, and further, this figurative red or green determination in *Galand* has nothing to do with whether a measured number of packet data is larger than a threshold value associated with a two-way communication characteristic of the packet data transmission, as recited in the claims. *Johannson* fails to cure these stated deficiencies in *Galand*.

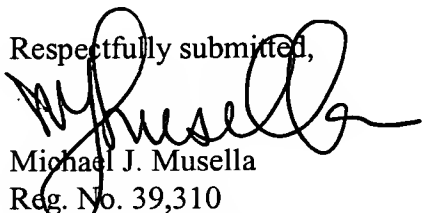
For at least the foregoing reasons, it is respectfully requested that the §103(a) rejection of Claims 1-3 and 15-19 be withdrawn.

Independent Claims 1, 5, 8, 15 and 24 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-4, 6, 7, 9-12, 16-19 and 25-28,

these are likewise believed to be allowable by virtue of their dependence on their respective independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-4, 6, 7, 9-12, 16-19 and 25-28 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-12 and 15-28, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



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